

Lewis County Planning Commission **Workshop**

Mossyrock Community Building
219 E State St
Mossyrock

October 13, 2015 - Meeting Notes

Planning Commissioners Present: Mike Mahoney, District 1; Leslie Myers, District 1; Sue Rosbach, District 1; Bob Guenther, District 3; Jeff Millman, District 2; Russ Prior, District 3

Planning Commissioners Excused: Richard Tausch, District 2

Staff Present: Lee Napier, Community Development Director; Fred Evander, Senior Planner; Glenn Carter, Prosecuting Attorney's Office; Pat Anderson

Consultants Present: Brad Medrud, AHBL Inc.

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes
- Shoreline Master Program PowerPoint
- FAQ on Shoreline Master Program

1. Call to Order

Chair Mahoney called the meeting to order at 6:07 p.m. The Commissioners and Staff introduced themselves. Ms. Napier introduced Commissioner Gary Stamper from District 3.

2. Approval of Agenda

There were no corrections or additions to the agenda and was approved as presented.

3. Approval of Meeting Notes from September 22, 2015

Commissioner Rosbach made a motion to approve the meeting notes; Commissioner Millman seconded. The motion carried unanimously.

4. Old Business

A. Workshop on Shoreline Master Program (SMP)

Chairman Mahoney stated Mr. Medrud would explain the Shoreline Master Program. The presentation would be the same as given in Chehalis in September. A public hearing on this topic will be held later in the year, mostly likely in December, and the Chair asked for comments in writing if people could not attend the public hearing.

Mr. Medrud presented a PowerPoint and stated the SMP update is a state-driven process. The existing plan was adopted in 1974 and Lewis County, along with all jurisdictions state-wide, is required to update to current science and regulations. The purpose of the SMP is to manage and protect shorelines. The County SMP has goals and policies and is very much like a comprehensive plan. The Department of Ecology (DOE) will have ultimate authority over the document.

Update requirements include “no net loss,” preserving and enhancing public access; providing for and giving preference to “water-oriented uses;” and providing for voluntary restoration planning.

Mr. Medrud explained “no net loss.” This means if one does something within the shoreline jurisdiction he must mitigate. This affects only uses and development going forward from today. Whatever is currently in the shoreline jurisdiction will not be affected by the update. If the use within the shoreline jurisdiction changes, then the new regulations are applicable.

Q – What if you want to sell property bought 30 years ago along the lake? Mr. Medrud stated that uses and development on a property purchased 30 years ago would be under the original SMP. New uses and development on that property would fall under the updated SMP. He could not say there is an “out” for someone who has had property for a length of time. This is a state-driven mandate and the County is trying to respond to that as per Lewis County regulations. If there are current Lewis County, state, or federal regulations in existence now that do what the SMP will do, we will reference them.. We don’t want to create a conflict.

Q – If you want to put in a motel you couldn’t do it. People who have invested in Lewis County are being penalized. Mr. Medrud stated that is a question of use. The current uses in the current SMP will be the same uses under the updated SMP. If the current comprehensive plan and zoning maps show a level of use is allowed we will try to make sure the SMP does not change the existing uses allowed under the County’s zoning.

Q – A lot of structures probably did not get a shoreline permit the first time through. Will those be treated as existing structures? Mr. Medrud stated whatever was permitted will continue. Current development or above a certain percentage of improvement will trigger the SMP for those improvements.

Q – How will you harmonize the requirements now under the SMP and the Critical Areas Ordinance (CAO) – the differences in setbacks, etc.? Mr. Medrud replied that the state says if the current CAO has used best available science then that is the direction we should be going with the SMP. There will be a difference between the two but the County would go with whichever is greater or most protective of the shoreline.

Chair Mahoney asked Mr. Medrud to define “shoreline jurisdiction.” Mr. Medrud stated where shorelines apply is around lakes greater than 20 acres; rivers with mean annual flow of 1,000 cubic feet per second; and rivers and streams with mean annual flow of over 20 cubic feet per second. The mean annual flow is over a period of years and applies to certain segments of the river or stream; it is not picking the average flow for a summer for example.

Mr. Medrud stated the maps are planning level maps; they are not surveyed information, and they are based on where the river/stream is at the moment. When a development goes forward, it is at that point where the ordinary high water mark and the shoreline jurisdiction and buffers are determined.

Commissioner Prior stated he did not see anything about the channel migration zones. Mr. Medrud stated DOE had those removed. Mr. Medrud later corrected this statement: channel migration zones were used in determining the shoreline jurisdiction.

Chair Mahoney invited the public to look at the maps. He explained that the colored areas fall within the shorelines jurisdiction, with the colors indicating various intensity or uses. The PowerPoint used tonight is available as handouts and can also be found at https://www.ezview.wa.gov/site/alias_1764/34605/default.aspx.

Mr. Medrud continued with the elements of the SMP update. Public participation has been through open houses, the Citizens Advisory Committee (CAC); the Technical Advisory Committee (TAC); the SMP update website; and Planning Commission and County Commission workshops and public hearings.

Mr. Medrud summarized the Shoreline Inventory and Analysis and Restoration Plan, the latter of which is a new requirement. He stated the Restoration Plan is a voluntary action taken by the County to improve the overall health of the shoreline. A question was if the County can partner with land owners. Mr. Medrud stated yes, that could take place. He also stressed that this applies to future development; it is not retroactive to what is already in place.

The map colors signify shoreline environment designations, similar to zoning designations and uses that are allowed, or level of buffering at a higher level. Existing CAO buffers are being used as shoreline buffers; the CAO will not be exceeded. Buffers also depend on non-water oriented uses (such as a grocery store); water-related/water enjoyment; and water dependent uses (such as a marina).

Mr. Medrud explained the agriculture flow chart. If an agricultural use is extended to an area that has not been in agriculture use, then the SMP would be used.

Q – Would that include a hobby farm? Mr. Medrud stated if it fits in the list within the plan. Chairman Mahoney stated this refers to agricultural activities and if those activities are ongoing then they are exempt from the permitting process. Existing footprints (buildings, foundations) may be maintained and enhanced as long as the footprint is not increased. No SMP permit will be required for these; however building permits may be required. He also noted that all of the resource designations (mining, forestry and agriculture) are recognized to cross over. RDD (Rural Density Development) also recognizes forestry and ag uses. The Forest Practices Act takes precedence in long term forestry and the SMP recognizes that.

Q – If you have property with an agricultural activity and you sell it does that go to the next buyer? Mr. Medrud stated as long as the activity is continuous; there can be no lapse.

Mr. Medrud next spoke to shoreline uses and modifications. Areas that have been updated include boating and water access; shoreline stabilization; aquaculture; grading, clearing and fill.

Q – This does not cover net pens in the water. Mr. Medrud stated if the Hydraulic Project Approval (HPA) can do this, it goes far beyond the County's requirements. The County will not go further.

Slides were shown with various examples of shoreline buffering, shoreline variances and reductions. A buffer can be reduced in one place if it is increased someplace else on the same property, which is one way to allow building. Chairman Mahoney reminded the group that the SMP is applicable within the shoreline jurisdiction. The shoreline jurisdiction is not fixed – it changes from year to year. That is why the maps are just a guideline. At some point in the future if the river moves then the shoreline jurisdiction also moves.

Mr. Evander cited pages and sections in the draft plan that show ways to reduce a buffer.

Q – These examples are on a river. Is it the same for lakes? Mr. Medrud stated yes.

Q – If I live in King County will the same rules apply there? Are any of the regulatory aspects that the state is forcing going to be enforced upon people living around Lake Washington? Chairman Mahoney stated you could not get a permit for another houseboat or build on the water any more. The rules have changed up there, too.

Q – Regarding riparian habitat, there was nothing about nighttime lighting. Could that be incorporated? Mr. Medrud stated lighting or noise has not been included as part of the SMP.

Q – Is there a light regulation in the CAO? Ms. Napier stated no, there is not. Mr. Evander stated that would be addressed in zoning or other regulations. Commissioner Prior stated there are places in the document that talk about visual impairment, such as a building. One might argue that a light impairs your view. Mr. Medrud stated the intent of that is not light pollution but visual public access.

Chair Mahoney stated if there is a buffer between you and the water, you may have access to go fishing or picnicking but state law states you have to do what you can to protect the river. If you are going to get rid of invasive species you cannot do it with a backhoe. Mr. Medrud stated the use of chemicals in a shoreline jurisdiction falls under state regulations.

Q – A pre-existing use is allowed. My cows walk down to the water and drink from the water. The conflict is between the Shoreline Management Act and to apply pre-existing conditions you have to have a buffer from the high water mark. Chair Mahoney stated that does not apply to agricultural activities. The SMP is for development along the shoreline. Your pasturing is not being infringed upon.

There were a few more examples of buffering and Mr. Evander stated exemptions can still be permitted with conditional uses or shoreline variances. These uses are reviewed by the County and the recommendation goes to DOE for the final decision. There is no reasonable use within the SMP; it becomes a shoreline variance.

Mr. Medrud stated the next steps include another workshop on November 10 and a public hearing before the Planning Commission slated for December 8. The Board of County Commissioners will hold a hearing sometime between January and March, 2016.

Q – When the BOCC approves the document does it go into effect immediately? Mr. Medrud stated when the BOCC accepts the draft it will go to DOE. DOE has its own process and if they approve the draft it goes into effect two weeks after approval.

5. New Business

There was no new business.

6. Calendar

The next meeting will be on November 10, 2015, a workshop on the SMP.

7. Good of the Order

No one wished to speak.

8. Adjourn

The business before the Planning Commission concluded and adjournment was at 8:10 p.m.